

# **RULES OF PROCEDURE**

## **SELECT COMMITTEE**

### **ON ETHICS**

ADOPTED FEBRUARY 23, 1978

the investigation and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. It shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. However, no recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four members of the Committee.

(3) Promptly after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

#### RULE 6: PROCEDURES FOR HEARINGS

(a) *Right to a Hearing:* The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5 (e) above.)

(b) *Non-public Hearings:* The Committee may at any time during a hearing determine in accordance with paragraph 7(b) of Rule XXV of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. (See Appendix A to these Rules). If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) *Adjudicatory Hearings:* The Committee may, by

majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in Rule 6(j) below shall apply.

(d) *Subpoena Power*: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7 below.)

(e) *Notice of Hearings*: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f) above.

(f) *Presiding Officer*: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) *Witnesses*:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may by majority vote rule that no Member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least 2 working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be per-

mitted to present a brief oral opening statement, if he or she desires to do so.

(h) *Right to Testify*: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may:

(1) Request to appear personally before the Committee to testify in his or her own behalf; or,

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained.

Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) *Conduct of Witnesses and Other Attendees*: The presiding officer may punish any breaches of order and decorum by censure and exclusion from the hearings, and the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) *Adjudicatory Hearing Procedures*:

(1) *Notice of Hearings*: A copy of the public announcement of an adjudicatory hearing, required by Rule 6(e) above, shall be furnished to all witnesses at the time that they are subpoenaed or otherwise summoned to testify, together with a copy of these rules.

(2) *Preparation for Adjudicatory Hearings*:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any. At the discretion of the Committee, the information and documents to be exchanged under subsections (A) and (B) shall be subject to an appropriate agreement limiting access and disclosure.

(i) A list of proposed witnesses to be called at the hearing.

(ii) Copies of all documents expected to be introduced as exhibits at the hearing.

(iii) A brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any,

shall provide the information and documents described in subsections (i), (ii) and (iii) above to the Committee.

(C) If a respondent refuses to provide the information and documents described above to the Committee (see Rule 6(j) (2) (A) (B) above), or if a respondent or other individual violates an agreement limiting access and disclosure (see Rule 6(j) (2) (A) above), the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of Witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) Right to Counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) Right to Cross-Examine and Call Witnesses:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her own behalf. Such application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least 1 working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be propounded to that witness. Such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness' counsel may also submit additional sworn testimony for the record within 24 hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chair-